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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,738	01/08/2004	Mark Spencer Chamberlain	920076.401	1191

500 7590 12/29/2005

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EXAMINER

RICCI, JOHN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/754,738	Applicant(s) CHAMBERLAIN, MARK SPENCER	
	Examiner John Ricci	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 12-17 is/are allowed.
- 6) ☒ Claim(s) 5-11 and 18 is/are rejected.
- 7) ☒ Claim(s) 19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claims 5-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 includes the trademark "Velcro". It is not proper to include trademarks in the claims, because the manufacturer may change the nature of the product without changing the name, thus changing the scope of the claim.

Claim 5, line 18, there is no antecedent for the "fastener stripe".

* * * * *

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Mabuchi 3,940,882.

Mabuchi shows a flying toy having a wing 3, 4 having a leading edge and trailing edge; and a propulsion system

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mounted on the wing, having a propellor 6 mounted aft of the trailing edge of the wing a distance sufficient to decouple the propellor from turbulence at the trailing edge of the wing.

* * * * *

Claims 1-4, & 12-17 are allowed.

Claims 5-11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With regard to claim 1, the prior art does not disclose a flying wing toy including a propeller, and a motor for the propeller, in an enclosure that form-fits to the motor to maximize air presented to the propeller; the wing having a smooth streamlined featureless top surface between the nose and propeller.

With regard to claim 5, the prior art does not disclose a system for securing a battery module within a wing toy, including a cutout in the bottom surface of the wing; straps perpendicular to the wing chord for mounting the battery; a flexible cover flap attached to the underside of the wing body, to cover the opening; and hook and loop fasteners to hold the cover flap over the opening.

With regard to claim 12, the prior art does not disclose a flying wing having a battery bay, and a motor enclosure which extends from the trailing edge.

With regard to claim 15, the prior art does not disclose a flying wing including an airfoil, which is swept back to form a nose portion, and having an arched configuration; a battery bay in the airfoil interior; a motor for rotating a propeller; and a motor mount extending aft of the trailing edge to position the propeller away from turbulence at the trailing edge of the airfoil.

* * * * *

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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This letter was prepared by Examiner John Ricci, who can be reached at:

Voice: 571-272-4429


Fax: Use 571-273-8300 for papers to be delivered directly to the mail room, like formal amendments and responses, change of address, power of attorney, petitions.

Use 703-783-0439 for papers to be delivered directly to the Examiner, like informal or proposed responses for discussion, or notes in preparation for an interview.

Response by Fax is encouraged to reduce mail processing time. Please don't send duplicate papers by mail and Fax.

PTO main switchboard: 800-786-9199.

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**JOHN RICCI
PRIMARY EXAMINER
ART UNIT 3711**